

(c) The reporting requirement for DMDC and DIS has been assigned Report Control Symbol DD-C3I(A) 1749.

[58 FR 61026, Nov. 19, 1993]

§ 154.78 Inspections.

The heads of DoD Components shall assure that personnel security program matters are included in their administrative inspection programs.

APPENDIX A TO PART 154— INVESTIGATIVE SCOPE

This appendix prescribes the scope of the various types of personnel security investigations.

1. *National Agency Check (NAC).* Components of a NAC. At a minimum, the first three of the described agencies (DCII, FBI/HQ, and FBI/ID) below shall be included in each complete NAC; however, a NAC may also include a check of any or all of the other described agencies, if appropriate.

a. DCII records consist of an alphabetical index of personal names and impersonal titles that appear as subjects or incidentals in investigative documents held by the criminal, counterintelligence, fraud, and personnel security investigative activities of the three military departments, DIS, Defense Criminal Investigative Service (DCIS), and the National Security Agency. DCII records will be checked on all subjects of DoD investigations.

b. FBI/HQ has on file copies of investigations conducted by the FBI. The FBI/HQ check, included in every NAC, consists of a review of files for information of a security nature and that developed during applicant-type investigations.

c. An FBI/ID check, included in every NAC (but not ENTNAC), is based upon a technical fingerprint search that consists of a classification of the subject's fingerprints and comparison with fingerprint cards submitted by law enforcement activities. If the fingerprint card is not classifiable, a "name check only" of these files is automatically conducted.

d. OPM. The files of OPM contain the results of investigations conducted by OPM under Executive Orders 9835 and 10450, those requested by the Nuclear Regulatory Commission (NRC), the Department of Energy (DOE) and those requested since August 1952 to serve as a basis for "Q" clearances. Prior to that date, "Q" clearance investigations were conducted by the FBI. A "Q" clearance is granted to individuals who require access to DOE information. In order to receive a "Q" clearance, a full field background investigation must be completed on the individual requiring access in accordance with the Atomic Energy Act of 1954. Also on file are

the results of investigations on the operation of the Merit System, violations of the Veterans Preference Act, appeals of various types, fraud and collusion in Civil Service examinations and related matters, data on all Federal employment, and an index of all BIs on civilian employees or applicants completed by agencies of the Executive Branch of the U.S. Government. The OPM files may also contain information relative to U.S. citizens who are, or who were, employed by a United Nations organization or other public international organization such as the Organization of American States. OPM records are checked on all persons who are, or who have been, civilian employees of the U.S. Government; or U.S. citizens who are, or who have been, employed by a United Nations organization or other public international organization; and on those who have been granted security clearances by the NRC or DOE.

e. Immigration and Naturalization Service (I&NS). The files of I&NS contain (or show where filed) naturalization certificates, certificates of derivative citizenship, all military certificates of naturalization, repatriation files, petitions for naturalization and declaration of intention, visitors' visas, and records of aliens (including government officials and representatives of international organizations) admitted temporarily into the U.S. I&NS records are checked when the subject is:

- (1) An alien in the U.S., or
- (2) A naturalized citizen whose naturalization has not been verified, or
- (3) An immigrant alien, or
- (4) A U.S. citizen who receives derivative citizenship through the naturalization of one or both parents, provided that such citizenship has not been verified in a prior investigation.

f. State Department. The State Department maintains the following records:

(1) Security Division (S/D) files contain information pertinent to matters of security, violations of security, personnel investigations pertinent to that agency, and correspondence files from 1950 to date. These files are checked on all former State Department employees.

(2) Passport Division (P/D) shall be checked if subject indicates U.S. citizenship due to birth in a foreign country of American parents. This is a check of State Department Embassy files to determine if subject's birth was registered at the U.S. Embassy in the country where he was born. Verification of this registration is verification of citizenship.

g. Central Intelligence Agency (CIA). The files of CIA contain information on present and former employees, including members of the Office of Strategic Services (OSS), applicants for employment, foreign nationals, including immigrant aliens in the U.S., and

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U.S. citizens traveling outside the U.S. after July 1, 1946. These files shall be checked under the following guidelines.

Investigation	Criteria for CIA Checks
NAC, DNACI or ENTNAC.	Residence anywhere outside of the U.S. for a year or more since age 18 except under the auspices of the U.S. Government; and, travel, education, residence, or employment since age 18 in any designated country (Appendix G).
BI	Same as NAC, DNACI, and ENTNAC requirements plus travel, residence, employment, and education outside the U.S. for more than a continuous 3-month period during the past 5 years, or since age 18, except when under the auspices of the Government.
SBI	Same as BI requirements except the period of the investigation will cover the past 15 years, or since age 18. Also when subject's employment, education or residence has occurred overseas for a period of more than one year under the auspices of the U.S. Government, such checks will be made.

These files shall also be checked if subject has been an employee of CIA or when other sources indicate that CIA may have pertinent information.

h. Military Personnel Record Center files are maintained by separate departments of the Armed Forces, General Services Administration and the Reserve Records Centers. They consist of the Master Personnel Records of retired, separated, reserve, and active duty members of the Armed Force. These records shall be checked when the requester provides required identifying data indicating service during the last 15 years.

i. Treasury Department. The files of Treasury Department agencies (Secret Service, Internal Revenue Service, and Bureau of Customs) will be checked only when available information indicates that an agency of the Treasury Department may be reasonably expected to have pertinent information.

j. The files of other agencies such as the National Guard Bureau, the Defense Industrial Security Clearance Office (DISCO), etc., will be checked when pertinent to the purpose for which the investigation is being conducted.

2. DoD National Agency Check plus Written Inquires (DNACI):

a. *Scope*: The time period covered by the DNACI is limited to the most recent five (5) years, or since the 18th birthday, whichever is shorter, provided that the investigation covers at least the last two (2) full years of the subject's life, although it may be extended to the period necessary to resolve any questionable or derogatory information. No investigation will be conducted prior to an individual's 16th birthday. All DNACI investigation information will be entered on the DD Form 398-2 and FD-Form 258 and for-

warded to the Defense Investigative Service (paragraph D, Appendix B).

b. *Components of a DNACI*:

(1) *NAC*. This is the same as described in paragraph 1, above.

(2) *Credit*. (a) A credit bureau check will be conducted to cover the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands, at all locations where subject has resided (including duty stations and home ports), been employed, or attended school for 6 months (cumulative) during the past five (5) years.

(b) When information developed reflects unfavorably upon a person's current credit reputation or financial responsibility, the investigation will be expanded as necessary.

(3) *Employment*.—(a) *Non-Federal Employment*. (1) Verify, via written inquiry, all employment within the period of investigation with a duration of six (6) months or more. Current employment will be checked regardless of duration.

(2) If all previous employments have been less than 6 months long, the most recent employment, in addition to the current, will be checked in all cases.

(3) Seasonal holiday, part-time and temporary employment need not be checked unless subparagraph 2 above applies.

(b) *Federal employment*. All Federal employment (to include military assignments) within the period of investigation will be verified by the requester through locally available records, and a statement reflecting that such checks have been favorably accomplished will be contained in the investigative request. Those that cannot be verified in this fashion will be accomplished via written inquiry by DIS (within the 50 United States, Puerto Rico, Guam, and the Virgin Islands).

3. *Background Investigation (BI)*. The period of investigation for the BI is 5 years and applies to military, civilian, and contractor personnel.

a. *NAC*. See paragraph 1, above.

b. *Local Agency Checks (LAC)*. Same as paragraph 4j, below, except period of coverage is five years.

c. *Credit checks*. Same as paragraph 4i, below.

d. *SUBJECT Interview (SI)*. This is the principal component of a BI. In some instances an issue will arise after the primary SI and a secondary interview will be conducted. Interviews in the latter category are normally "issue" interviews that will be reported in the standard BI narrative format.

e. *Employment records*. Employment records will be checked at all places where employment references are interviewed with the exception of current Federal employment when the requester indicates that such employment has been verified with favorable results.

f. *Employment reference coverage*. A minimum of three references, either supervisors or

co-workers, who have knowledge of the SUBJECT's activities in the work environment will be interviewed. At least one employment reference at the current place of employment will always be interviewed with the exception of an individual attending military basic training, or other military training schools lasting less than 90 days. However, if the SUBJECT has only been at the current employment for less than 6 months, it will be necessary to go not only to his or her current employment (for example, for one employment reference) but also to the preceding employment of at least 6 months for additional employment references. If the SUBJECT has not had prior employment of at least 6 months, interview(s) will be conducted at the most recent short-term employment in addition to the current employment.

g. *Developed and Listed Character References.* A minimum of three developed character references (DCR) whose combined association with the SUBJECT covers the entire period of investigation will be interviewed. If coverage cannot be obtained through the DCRs, listed character reference (LCR) will be contacted to obtain coverage.

h. *Unfavorable information.* Unfavorable information developed in the field will be expanded.

4. *Special Background Investigation (SBI)*—

a. *Components of an SBI.* The period of investigation for an SBI is the last 15 years or since the 18th birthday, whichever is the shorter period, provided that the investigation covers at least the last 2 full years of the subject's life. No investigation will be conducted for the period prior to an individual's 16th birthday. Emphasis shall be placed on peer coverage whenever interviews are held with personal sources in making education, employment, and reference (including developed) contact.

b. *NAC.* In addition to conducting a NAC on the subject of the investigation, the following additional requirements apply.

(1) A DCII, FBI/ID name check only and FBI/HQ check shall be conducted on subject's current spouse or cohabitant. In addition, such other national agency checks as deemed appropriate based on information on the subject's SPH or PSQ shall be conducted.

(2) A check of FBI/HQ files on members of subject's immediate family who are aliens in the U.S. or immigrant aliens who are 18 years of age or older shall be conducted. As used throughout the part, members of subject's immediate family include the following:

- (a) Current spouse.
- (b) Adult children, 18 years of age or older, by birth, adoption, or marriage.
- (c) Natural, adopted, foster, or stepparents.
- (d) Guardians.
- (e) Brothers and sisters either by birth, adoption, or remarriage of either parent.

(3) The files of CIA shall be reviewed on alien members of subject's immediate family who are 18 years of age or older, regardless of whether or not these persons reside in the U.S.

(4) I&NS files on members of subject's immediate family 18 years of age or older shall be reviewed when they are:

- (a) Aliens in the U.S., or
- (b) Naturalized U.S. citizens whose naturalization has not been verified in a prior investigation, or
- (c) Immigrant aliens, or
- (d) U.S. citizens born in a foreign country of American parent(s) or U.S. citizens who received derivative citizenship through the naturalization of one or both parents, provided that such citizenship has not been verified in a prior investigation.

c. *Birth.* Verify subject's date and place of birth (DPOB) through education, employment and/or other records. Verify through Bureau of Vital Statistics (BVS) records if not otherwise verified under d., below, or if a variance is developed.

d. *Citizenship.* Subject's citizenship status must be verified in all cases. U.S. citizens who are subjects of investigation will be required to produce documentation that will confirm their citizenship. Normally such documentation should be presented to the DoD Component concerned prior to the initiation of the request for investigation. When such documentation is not readily available, investigative action may be initiated with the understanding that the designated authority in the DoD Component will be provided with the documentation prior to the issuance of a clearance. DIS will not check the BVS for native-born U.S. citizens except as indicated in 4.c. above. In the case of foreign-born U.S. citizens, DIS will check I&NS records. The citizenship status of all foreign-born members of subject's immediate family shall be verified. Additionally, when the investigation indicates that a member of subject's immediate family has not obtained U.S. citizenship after having been eligible for a considerable period of time, an attempt should be made to determine the reason. The documents listed below are acceptable for proof of U.S. citizenship for personnel security determination purposes:

(1) A birth certificate must be presented if the individual was born in the United States. To be acceptable, the certificate must show that the birth record was filed shortly after birth and must be certified with the registrar's signature and the raised, impressed, or multicolored seal of his office except for States or jurisdictions which, as a matter of policy, do not issue certificates with a raised or impressed seal. Uncertified copies of birth certificates are not acceptable.

(a) A delayed birth certificate (a record filed more than one year after the date of birth) is acceptable provided that it shows

that the report of birth was supported by acceptable secondary evidence of birth as described in subparagraph (b), below.

(b) If such primary evidence is not obtainable, a notice from the registrar stating that no birth record exists should be submitted. The notice shall be accompanied by the best combination of secondary evidence obtainable. Such evidence may include a baptismal certificate, a certificate of circumcision, a hospital birth record, affidavits of persons having personal knowledge of the facts of the birth, or other documentary evidence such as early census, school, or family bible records, newspaper files and insurance papers. Secondary evidence should have been created as close to the time of birth as possible.

(c) All documents submitted as evidence of birth in the United States shall be original or certified documents. Uncertified copies are not acceptable.

(2) A certificate of naturalization shall be submitted if the individual claims citizenship by naturalization.

(3) A certificate of citizenship issued by the I&NS shall be submitted if citizenship was acquired by birth abroad to a U.S. citizen parent or parents.

(4) A Report of Birth Abroad of A Citizen of The United States of America (Form FS-240), a Certification of Birth (Form FS-545 or DS-1350), or a Certificate of Citizenship is acceptable if citizenship was acquired by birth abroad to a U.S. citizen parent or parents.

(5) A passport or one in which the individual was included will be accepted as proof of citizenship.

e. *Education.* (1) Verify graduation or attendance at institutions of higher learning in the U.S. within the last 15 years, if such attendance was not verified during a prior investigation.

(2) Attempts will be made to review records at overseas educational institutions when the subject resided overseas in excess of one year.

(3) Verify attendance or graduation at the last secondary school attended within the past 10 years if there was no attendance at an institution of higher learning within the period of investigation.

(4) Verification of attendance at military academies is only required when the subject failed to graduate.

f. *Employment.* (1) Non-Federal employment. Verify all employment within the period of investigation to include seasonal, holiday, Christmas, part-time, and temporary employment. Interview one supervisor and one co-worker at subject's current place of employment as well as at each prior place of employment during the past 10 years of six months duration or longer. The interview requirement for supervisors and co-workers does not apply to seasonal, holiday, Christmas, part-time, and temporary employment (4 months or less) unless there are

unfavorable issues to resolve or the letter of inquiry provides insufficient information.

(2) *Federal employment.* All Federal employment will be verified within the period of investigation to include Christmas, seasonal temporary, summer hire, part-time, and holiday employment. Do not verify Federal employment through review of records if already verified by the requester. If Federal employment has not been verified by the requester, then subject's personnel file at his/her current place of employment will be reviewed. All previous Federal employment will be verified during this review. In the case of former Federal employees, records shall be examined at the Federal Records Center in St. Louis, Missouri. Interview one supervisor and one co-worker at all places of employment during the past 10 years if so employed for 6 months or more.

(3) *Military employment.* Military service for the last 15 years shall be verified. The subject's duty station, for the purpose of interview coverage, is considered as a place of employment. One supervisor and one co-worker shall be interviewed at subject's current duty station if subject has been stationed there for 6 months or more; additionally, a supervisor and a co-worker at subject's prior duty stations where assigned for 6 months or more during the past 10 years shall be interviewed.

(4) *Unemployment.* Subject's activities during all periods of unemployment in excess of 30 consecutive days, within the period of investigation, that are not otherwise accounted for shall be verified.

(5) When an individual has resided outside the U.S. continuously for over one year, attempts will be made to confirm overseas employments as well as conduct required interviews of a supervisor and co-worker.

g. *References.* Three developed character references who have sufficient knowledge of subject to comment on his background, suitability, and loyalty shall be interviewed personally. Efforts shall be made to interview developed references whose combined association with subject covers the full period of the investigation with particular emphasis on the last 5 years. Employment, education, and neighborhood references, in addition to the required ones, may be used as developed references provided that they have personal knowledge concerning the individual's character, discretion, and loyalty. Listed character references will be interviewed only when developed references are not available or when it is necessary to identify and locate additional developed character references or when it is necessary to verify subject's activities (e.g., unemployment).

h. *Neighborhood investigation.* Conduct a neighborhood investigation to verify each of subject's residences in the U.S. of a period of 6 months or more on a cumulative basis, during the past 5 years or during the period of

investigation, whichever is shorter. During each neighborhood investigation, interview two neighbors who can verify subject's period of residence in that area and who were sufficiently acquainted to comment on subject's suitability for a position of trust. Neighborhood investigations will be expanded beyond this 5-year period only when there is unfavorable information to resolve in the investigation.

i. *Credit.* Conduct credit bureau check in the 50 States, the District of Columbia, Puerto Rico and overseas (where APO/FPO addresses are provided) at all places where subject has resided (including duty stations and home ports), been employed, or attended school for 6 months or more, on a cumulative basis, during the last 7 years or during the period of the investigation, whichever is shorter. When coverage by a credit bureau is not available, credit references located in that area will be interviewed. Financial responsibility, including unexplained affluence, will be stressed in all reference interviews.

j. *Local Agency Checks (LAC's).* LACs, including State central criminal history record repositories, will be conducted on subject at all places of residence to include duty stations and/or home ports, in the 50 States, the District of Columbia, and Puerto Rico, where residence occurred during the past 15 years or during the period of investigation, whichever is shorter. If subject's place of employment and/or education is serviced by a different law enforcement agency than that servicing the area of residence, LACs shall be conducted also in these areas.

k. *Foreign travel.* If subject has been employed, educated, traveled or resided outside of the U.S. for more than 90 days during the period of investigation, except under the auspices of the U.S. Government, additional record checks during the NAC shall be made in accordance with paragraph 1.f. of this Appendix. In addition, the following requirements apply:

(1) Foreign travel not under the auspices of the U.S. Government. When employment, education, or residence has occurred overseas for more than 90 days during the past 15 years or since age 18, which was not under the auspices of the U.S. Government, a check of records will be made at the Passport Office of the Department of State, the CIA, and other appropriate agencies. Efforts shall be made to develop sources, generally in the U.S., who knew the individual overseas to cover significant employment, education, or residence and to determine whether any lasting foreign contacts or connections were established during this period. If the individual has worked or lived outside of the U.S. continuously for over one year, the investigation will be expanded to cover fully this period through the use of such investigative assets and checks of record sources as may be

available to the U.S. Government in the foreign country in which the individual resided.

(2) Foreign travel under the auspices of the U.S. Government. When employment, education, or residence has occurred overseas for a period of more than one year, under the auspices of the U.S. Government, a record check will be made at the Passport Office of the Department of State, the CIA and other appropriate agencies. Efforts shall be made to develop sources (generally in the U.S.) who knew the individual overseas to cover significant employment, education, or residence and to determine whether any lasting foreign contacts or connections were established during this period. Additionally, the investigation will be expanded to cover fully this period through the use of such investigative assets and checks of record sources as may be available to the U.S. Government in the foreign country in which the individual resided.

1. *Foreign connections.* All foreign connections (friends, relatives, and/or business connections) of subject and immediate family in the U.S. or abroad, except where such association was the direct result of subject's official duties with the U.S. Government, shall be ascertained. Investigation shall be directed toward determining the significance of foreign connections on the part of subject and the immediate family, particularly where the association is or has been with persons whose origin was within a country whose national interests are inimical to those of the U.S. When subject or his spouse has close relatives residing in a Communist-controlled country, or subject has resided, visited, or traveled in such a country, not under U.S. Government auspices, the provisions of §154.8(i)(3) of this part apply.

m. *Organizations.* Efforts will be made during reference interviews and record reviews to determine if subject and/or the immediate family has, or formerly had, membership in, affiliation with, sympathetic association towards, or participated in any foreign or domestic organization, association, movement, group, or combination of persons of the type described in §154.7(a) through (d) of this part.

n. *Divorce.* Divorces, annulments, and legal separations of subject shall be verified only when there is reason to believe that the grounds for the action could reflect on subject's suitability for a position of trust.

o. *Military service.* All military service and types of discharge during the last 15 years shall be verified.

p. *Medical records.* Medical records shall not be reviewed unless:

(1) The requester indicates that subject's medical records were unavailable for review prior to submitting the request for investigation, or

(2) The requester indicates that unfavorable information is contained in subject's medical records, or

(3) The subject lists one or more of the following on the SPH or PSQ:

(a) A history of mental or nervous disorders.

(b) That subject is now or has been addicted to the use of habit-forming drugs such as narcotics or barbiturates or is now or has been a chronic user to excess of alcoholic beverages.

q. *Updating a previous investigation to SBI standards.* If a previous investigation does not substantially meet the minimum standards of an SBI or if it is more than 5 years old, a current investigation is required but may be limited to that necessary to bring the individual's file up to date in accordance with the investigative requirements of an SBI. Should new information be developed during the current investigation that bears unfavorably upon the individual's activities covered by the previous investigation, the current inquiries shall be expanded as necessary to develop full details of this new information.

5. *Periodic Reinvestment (PR).* a. Each DoD military, civilian, consultant and contractor employee (to include non-U.S. citizens (foreign nationals and/or immigrant aliens) holding a limited access authorization) occupying a critical sensitive position, possessing a TOP SECRET clearance, or occupying a special access program position shall be the subject of a PR initiated 5 years from the date of completion of the last investigation. The PR shall cover the period of the last 5 years.

b. *Minimum investigative requirements.* A PR shall include the following minimum scope.

(1) *NAC.* A valid NAC on the SUBJECT will be conducted in all cases. Additionally, for positions requiring SCI access, checks of DCII, FBI/HQ, FBI/ID name check only, and other agencies deemed appropriate, will be conducted on the SUBJECT's current spouse or cohabitant, if not previously conducted. Additionally, NACs will be conducted on immediate family members, 18 years of age or older, who are aliens and/or immigrant aliens, if not previously accomplished.

(2) *Credit.* Credit bureau checks covering all places where the SUBJECT resided for 6 months or more, on a cumulative basis, during the period of investigation, in the 50 States, District of Columbia, Puerto Rico and overseas (where APO/FPO addresses are provided), will be conducted.

(3) *Subject interview.* The interview should cover the entire period of time since the last investigation, not just the last 5-year period. Significant information disclosed during the interview, which has been satisfactorily covered during a previous investigation, need not be explored again unless additional relevant information warrants further coverage. An SI is not required if one of the following conditions exists:

(a) The SUBJECT is aboard a deployed ship or in some remote area that would cause the interview to be excessively delayed.

(b) The SUBJECT is in an overseas location serviced by the State Department or the FBI.

(4) *Employment.* Current employment will be verified. Military and Federal service records will not routinely be checked, if previously checked by the requester when PR was originally submitted. Also, employment records will be checked wherever employment interviews are conducted. Records need be checked only when they are locally available, unless unfavorable information has been detected.

(5) *Employment references.* Two supervisors or co-workers at the most recent place of employment or duty station of 6 months; if the current employment is less than 6 months employment reference interviews will be conducted at the next prior place of employment, which was at least a 6-month duration.

(6) *Developed Character References (DCRs).* Two developed character references who are knowledgeable of the SUBJECT will be interviewed. Developed character references who were previously interviewed will only be reinterviewed when other developed references are not available.

(7) *Local Agency Checks (LACs).* DIS will conduct local agency checks on the SUBJECT at all places of residence, employment, and education during the period of investigation, regardless of duration, including overseas locations.

(8) *Neighborhood Investigation.* Conduct a neighborhood investigation to verify subjects' current residence in the United States. Two neighbors who can verify subject's period of residence in that area and who are sufficiently acquainted to comment on the subject's suitability for a position of trust will be interviewed. Neighborhood investigations will be expanded beyond the current residence when unfavorable information arises.

(9) *Ex-spouse interview.* If the subject of investigation is divorced, the ex-spouse will be interviewed when the date of final divorce action is within the period of investigation.

(10) *Select scoping.* When the facts of the case warrant, additional select scoping will be accomplished, as necessary, to fully develop or resolve an issue.

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APPENDIX B TO PART 154—REQUEST PROCEDURES

A. *General.* To conserve investigative resources and to insure that personnel security investigations are limited to those essential

to current operations and are clearly authorized by DoD policies, organizations requesting investigations must assure that continuing command attention is given to the investigative request process.

In this connection, it is particularly important that the provision of Executive Order 12356 requiring strict limitations on the dissemination of official information and material be closely adhered to and that investigations requested for issuing clearances are limited to those instances in which an individual has a clear need for access to classified information. Similarly, investigations required to determine eligibility for appointment or retention in DoD, in either a civilian or military capacity, must not be requested in frequency or scope exceeding that provided for in this part.

In view of the foregoing, the following guidelines have been developed to simplify and facilitate the investigative request process:

1. Limit requests for investigation to those that are essential to current operations and clearly authorized by DoD policies and attempt to utilize individuals who, under the provisions of this part, have already met the security standard;
2. Assure that military personnel on whom investigative requests are initiated will have sufficient time remaining in service after completion of the investigation to warrant conducting it;
3. Insure that request forms and prescribed documentation are properly executed in accordance with instructions;
4. Dispatch the request directly to the DIS Personnel Investigations Center;
5. Promptly notify the DIS Personnel Investigations Center if the investigation is no longer needed (notify OPM if a NACI is no longer needed); and
6. Limit access through strict need-to-know, thereby requiring fewer investigations.

In summary, close observance of the above-cited guidelines will allow the DIS to operate more efficiently and permit more effective, timely, and responsive service in accomplishing investigations.

B. *National Agency Check (NAC)*. When a NAC is requested an original only of the DD Form 398-2 (National Agency Check Request) and a completed FD 258 (Applicant Fingerprint Card) are required. If the request is for an ENTNANC, an original only of the DD Form 398-2 and a completed DD Form 2280 (Armed Forces Fingerprint Card) are required. Those forms should be sent directly to: Personnel Investigation Center, Defense Investigative Service, P.O. Box 1083, Baltimore, Maryland 21203.

C. *National Agency Check plus written Inquiries (NACI)*. When a NACI is requested, an original and one copy of the SF 85 (Data for Nonsensitive or Noncritical-sensitive Posi-

tion), an SF 171 (Personal Qualifications Statement), and an SF 87 (U.S. Civil Service Commission Fingerprint Chart) shall be sent directly to: Office of Personnel Management, Bureau of Personnel Investigations, NACI Center, Boyers, Pennsylvania 16018.

The notation "ALL REFERENCES" shall be stamped immediately above the title at the top of the Standard Form 85.

D. *DoD National Agency Check with Inquiries (DNACI)*. 1. When a DNACI is requested, one copy of DD Form 1879, an original and two copies of the DD Form 398-2 (National Agency Check Request), two copies of FD 258 (Fingerprint Card), and an original of DD Form 2221 (Authority for Release of Information and Records) shall be sent directly to: Personnel Investigations Center, Defense Investigative Service, P.O. Box 1083, Baltimore, Maryland 21203.

2. The DD Form 398-2 must be completed to cover the most recent five year period. All information, to include items relative to residences and employment, must be complete and accurate to avoid delays in processing.

E. *Special Background Investigation (SBI)/Background Investigation (BI)*. 1. When requesting a BI or SBI, one copy of DD Form 1879 (Request for Personnel Security Investigation), an original and four copies of DD Form 398 (Statement of Personnel History), two copies of FD 258, and an original of DD Form 2221 (Authority for Release of Information and Records) shall be sent directly to the: Personnel Investigations Center, Defense Investigative Service, P.O. Box 454, Baltimore, Maryland 21203.

2. For the BI and SBI, the DD Form 398 must be completed to cover the most recent five and 15 year period, respectively, or since the 18th birthday, whichever is shorter.

F. *Periodic Reinvestigation (PR)*. 1. PRs shall be requested only in such cases as are authorized by §154.19 (a) through (k) of this part.

a. For a PR requested in accordance with §154.19 (a) and (k) and the DD Form 1879 must be accompanied by the following documents:

- (1) Original and four copies of DD Form 398.
- (2) Two copies of FD-258.
- (3) Original copy of DD Form 2221.

b. In processing PRs, previous investigative reports will not be requested by the requesting organization, unless significant derogatory or adverse information, postdating the most recent favorable adjudication, is developed during the course of reviewing other locally available records. In the latter instance, requests for previous investigative reports may only be made if it is determined by the requesting organization that the derogatory information is so significant that a review of previous investigative reports is

necessary for current adjudicative determinations.

2. No abbreviated version of DD Form 398 may be submitted in connection with a PR.

3. The PR request shall be sent to the address in paragraph E.1.

G. Additional investigation to resolve derogatory or adverse information. 1. Requests for additional investigation required to resolve derogatory or adverse information shall be submitted by DD Form 1879 (Request for Personnel Security Investigation) to the: Defense Investigative Service, P.O. Box 454, Baltimore, Maryland 21203.

Such requests shall set forth the basis for the additional investigation and describe the specific matter to be substantiated or disproved.

2. The request should be accompanied by an original and four copies of the DD Form 398, where appropriate, two copies of FD-258 and an original copy of DD Form 2221, unless such documentation was submitted within the last 12 months to DIS as part of a NAC or other personnel security investigation. If pertinent, the results of a recently completed NAC, NACI, or other related investigative reports available should also accompany the request.

H. Obtaining results of prior investigations. Requesters requiring verification of a specified type of personnel security investigation, and/or requiring copies of prior investigations conducted by the DIS shall submit requests by letter or message to: Defense Investigative Service Investigative Files Division, P.O. Box 1211, Baltimore, Maryland 21203, Message Address: DIS PIC BALTIMORE MD/ /D0640.

The request will include subject's name, grade, social security number, date and place of birth, and DIS case control number if known.

I. Requesting postadjudication cases. 1. Requests pertaining to issues arising after adjudication of an investigation

(postadjudication cases) shall be addressed to DIS on a DD Form 1879 accompanied by a DD Form 398, where appropriate.

2. All requests for initial investigations will be submitted to PIC regardless of their urgency. If, however, there is an urgent need for a postadjudication investigation, or the mailing of a request to PIC for initiation of a postadjudication case would prejudice timely pursuit of investigative action, the DD Form 1879 may be directed for initiation, in CONUS, to the nearest DIS Field Office, and in overseas locations, to the military investigative service element supporting the requester (Appendix I). The field element (either DIS or the military investigative agency) will subsequently forward either the DD Form 1879 or completed investigation to PIC.

3. A fully executed DD Form 1879 and appropriate supporting documents may not be immediately available. Further, a case that is based on sensitive security issues may be compromised by a request that the subject submit a DD Form 398. A brief explanation should appear on DD Form 1879s which does not include complete supporting documentation.

J. Requests involving contractor employees. To preclude duplicative investigative requests and double handling of contractor employee cases involving access to classified information, all requests for investigation of contractor personnel must be submitted, using authorized industrial security clearance forms, for processing through the Defense Industrial Security Clearance Office, except for programs in which specific approval has been obtained from the Deputy Under Secretary of Defense for Policy to utilize other procedures.

K. Responsibility for proper documentation of requests. The official signing the request for investigation shall be responsible for insuring that all documentation is completed in accordance with these instructions.

APPENDIX C TO PART 154—TABLES FOR REQUESTING INVESTIGATIONS

GUIDE FOR REQUESTING BACKGROUND INVESTIGATIONS (BI) (TABLE 1)

A	B	C
If the individual is a:	And duties require:	Then a BI is required before:
U.S. national military member, civilian, consultant, or contractor employee.	Top Secret clearance	Granting final clearance.
U.S. national civilian employee	Assignment to a "Critical" sensitive position.	Assignment to the position.
U.S. national military member, DoD civilian or contractor employee.	Occupying a "critical" position in the Nuclear Weapon Personnel Reliability Program (PRP).	Occupying a "critical" position.
U.S. national military member or civilian employee.	Granting, denying clearances	Performing clearance functions.
U.S. national military member or civilian employee.	Membership on security screening, hearing, or review board.	Appointment to the board.
Immigrant alien	Limited access to Secret or Confidential information.	Issuing limited access authorization (Note 1).

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GUIDE FOR REQUESTING BACKGROUND INVESTIGATIONS (BI) (TABLE 1)—Continued

A If the individual is a:	B And duties require:	C Then a BI is required before:
Non-U.S. national employee excluding immigrant alien.	Limited access to Secret or Confidential information.	Issuing limited access authorization.
Non-U.S. national nominee military education and orientation program (from a country listed at Appendix G).	Education and orientation for of military personnel.	Before performing duties.
U.S. national military member DoD civilian or contractor employee.	Assignment to a category two Presidential Support position.	Assignment.
U.S. national military member, DoD civilian or contractor employee assigned to NATO.	Access to NATO COSMIC information	Access may be granted.

Note 1: BI will cover a 10 year scope.

GUIDE FOR REQUESTING SPECIAL BACKGROUND INVESTIGATIONS (SBI) (TABLE 2)

A If the individual is a:	B And duties require:	C Then a SBI is required before:
U.S. national military member, DoD civilian, consultant, or contractor employee.	Access to SCI	Granting Access.
	Assignment to a category one Presidential Support position.	Assignment.
	Access to SIOP-ESI	Granting access.
	Assignment to the National Security Agency.	Assignment.
	Access to other Special Access programs approved under § 154.17(g).	Granting access.
	Assignment to personnel security, counterintelligence, or criminal investigative or direct investigative support duties.	Assignment.

GUIDE FOR REQUESTING PERIODIC REINVESTIGATIONS (PR) (TABLE 3)

A If the individual is a:	B And duties require:	C Then a PR is required before:
U.S. national military member, DoD civilian, consultant, or contractor employee.	Access to SCI	5 years from date of last SBI/BI or PR.
	Top Secret Clearance	5 years from date of last SBI/BI or PR.
	Access to NATO COSMIC	5 years from date of last SBI/BI or PR.
	Assignment to Presidential Support activities.	5 years from date of last SBI/BI or PR.
U.S. national civilian employee	Assignment to a "Critical" sensitive position.	5 years from last SBI/BI or PR.
Non-U.S. national employee	Current limited access authorization to Secret or Confidential information.	5 years from last SBI/BI or PR.

GUIDE FOR REQUESTING DOD NATIONAL AGENCY CHECK WITH INQUIRIES (DNACI) OR NACI (TABLE 4)

A If the individual is a:	B And duties require:	C Then DNACI/NACI is required
U.S. national military member or contractor	Secret clearance	Before granting clearance (note 1).
	Interim Secret Clearance	May be automatically issued (note 2).
U.S. national civilian employee or consultant.	Secret clearance	Before granting clearance.
	Interim Secret Clearance	May be automatically issued (note 3).
	Appointment to "Non Critical" sensitive position.	Before appointment.
U.S. national military member, DoD civilian or contractor employee.	Occupying a "controlled" position in the Nuclear Weapon PRR.	Before assignment.

GUIDE FOR REQUESTING DOD NATIONAL AGENCY CHECK WITH INQUIRIES (DNACI) OR NACI (TABLE 4)—
Continued

A If the individual is a:	B And duties require:	C Then DNACI/NACI is required
Applicant for appointment as a commissioned officer.	Commission in the Award Forces	Before appointment (after appointment for health professionals, chaplains, and attorneys, under conditions authorized by § 154.15(d) of this part). To be initiated 90 days after entry.
Naval Academy Midshipman, Military Academy Cadet, or Air Force Academy Cadet.	Enrollment	To be initiated 90 days after entry.
Reserve Officer Training Corps Cadet of Midshipman.	Entry to advanced course or College Scholarship Program.	Then a DNACI is required to be initiated 90 days after entry.

Note 1: First term enlistees shall require an ENTNAC.

Note 2: Provided DD Form 398–2 is favorably reviewed, local records check favorably accomplished, and DNACI initiated.

Note 3: Provided an authority designated in Appendix E finds delay in such appointment would be harmful to national security; favorable review of DD Form 398–2; NACI initiated; favorable local records check accomplished. Table 5.

GUIDE FOR REQUESTING NATIONAL AGENCY CHECKS (NAC) (TABLE 5)

A If the individual is a:	B And duties require:	C Then a NAC is required:
A first-term enlistee	Retention in the Armed Forces (including National Guard and Reserve).	To be initiated NLT three work days after entry (note 1).
Prior service member reentering military service after break in Federal employment exceeding 1 year.	Retention in the Armed Forces (including National Guard and Reserve).	To be initiated NLT three work days after reentry.
Nominee for military education and orientation program.	Education and orientation of military personnel.	Before performing duties (note 2).
U.S. national military, DoD civilian, or contractor employee.	Access to restricted areas, sensitive information, or equipment as defined in § 154.18(b).	Before authorizing entry.
Nonappropriated fund instrumentality (NAFI) civilian employee.	Appointment as NAFI custodian	Before appointment.
	Accountability for non appropriated funds ..	Before completion of probationary period.
	Fiscal responsibility as determined by NAFI custodian.	Before completion of probationary period.
	Other "positions of trust"	Before appointment.
Persons requiring access to chemical agents.	Access to or security of chemical agents ...	Before assignment.
U.S. national, civilian employee nominee for customs inspection duties.	Waiver under provisions of § 154.18(d)	Before appointment (note 3).
Red Cross/United States Organization personnel.	Assignment with the Armed Forces overseas.	Before assignment (See note 4 for foreign national personnel).
U.S. national	DoD building pass	Prior to issuance.
Foreign national employed overseas	No access to classified information	Prior to employment (note 4).

Note 1: Request ENTNAC only.

Note 2: Except where personnel whose country of origin is a country listed at Appendix G, a BI will be required (See § 154.18(1)).

Note 3: A NAC not over 5 years old suffices unless there has been a break in employment over 12 months. Then a current NAC is required.

Note 4: In such cases, the NAC shall consist of: (a) Host government law enforcement and security agency record checks at the city, state (province), and national level, and (b) DCII.

APPENDIX D TO PART 154—REPORTING OF
NONDEROGATORY CASES

Background Investigation (BI) and Special Background Investigation (SBI) shall be considered as devoid of significant adverse information unless they contain information listed below:

1. Incidents, infractions, offenses, charges, citations, arrests, suspicion or allegations of illegal use or abuse of drugs or alcohol, theft or dishonesty, unreliability, irresponsibility,

immaturity, instability or recklessness, the use of force, violence or weapons or actions that indicate disregard for the law due to multiplicity of minor infractions.

2. All indications of moral turpitude, heterosexual promiscuity, aberrant, deviant, or bizarre sexual conduct or behavior, transvestitism, transsexualism, indecent exposure, rape, contributing to the delinquency of a minor, child molestation, wife-swapping, window-peeping, and similar situations from

whatever source. Unlisted full-time employment or education; full-time education or employment that cannot be verified by any reference or record source or that contains indications of falsified education or employment experience. Records or testimony of employment, education, or military service where the individual was involved in serious offenses or incidents that would reflect adversely on the honesty, reliability, trustworthiness, or stability of the individual.

3. Foreign travel, education, visits, correspondence, relatives, or contact with persons from or living in a foreign country or foreign intelligence service.

4. Mental, nervous, emotional, psychological, psychiatric, or character disorders/behavior or treatment reported or alleged from any source.

5. Excessive indebtedness, bad checks, financial difficulties or irresponsibility, unexplained affluence, bankruptcy, or evidence of living beyond the individual's means.

6. Any other significant information relating to the criteria included in paragraphs (a) through (q) of §154.7 or Appendix H of this part.

[52 FR 11219, Apr. 8, 1987, as amended at 58 FR 61026, Nov. 19, 1993]

APPENDIX E TO PART 154—PERSONNEL SECURITY DETERMINATION AUTHORITIES

A. *Officials authorized to grant, deny or revoke personnel security clearances (Top Secret, Secret, and Confidential):*

1. Secretary of Defense and/or designee
2. Secretary of the Army and/or designee
3. Secretary of the Navy and/or designee
4. Secretary of the Air Force and/or designee
5. Chairman, Joint Chiefs of Staff and/or designee
6. Directors of the Defense Agencies and/or designee
7. Commanders of the Unified and Specified Commands and/or designee

B. *Officials authorized to grant Limited Access Authorizations:*

1. Secretaries of the Military Departments and/or designee
2. Director, Washington Headquarters Service for OSD and/or designee
3. Chairman, JCS and/or designee
4. Directors of the Defense Agencies and/or designee
5. Commanders, Unified and Specified Commands and/or designee

C. *Officials authorized to grant access to SCI:*
Director, NSA—for NSA
Director, DIA—for OSD, OJCS, and Defense Agencies

Senior Officers of the Intelligence Community of the Army, Navy, and Air Force—for their respective Military Departments, or their single designee.

D. Officials authorized to certify personnel under their jurisdiction for access to Restricted Data (to include Critical Nuclear Weapon Design Information): see enclosure to DoD Directive 5210.2.

E. Officials authorized to approve personnel for assignment to Presidential Support activities: The Executive Secretary to the Secretary and Deputy Secretary of Defense or designee.

F. *Officials authorized to grant access to SIOP-ESI:*

1. Director of Strategic Target Planning
2. Director, Joint Staff, OJCS
3. Chief of Staff, U.S. Army
4. Chief of Naval Operations
5. Chief of Staff, U.S. Air Force
6. Commandant of the Marine Corps
7. Commanders of Unified and Specified Commands
8. The authority to grant access delegated above may be further delegated in writing by the above officials to the appropriate subordinates.

G. *Officials authorized to designate sensitive positions:*

1. Heads of DoD Components or their designees for critical-sensitive positions.
2. Organizational commanders for non-critical-sensitive positions.

H. *Nonappropriated Fund Positions of Trust:*

Officials authorized to designate non-appropriated fund positions of trust: Heads of DoD Components and/or their designees.

APPENDIX F TO PART 154—GUIDELINES FOR CONDUCTING PRENOMINATION PERSONAL INTERVIEWS

A. *Purpose.* The purpose of the personal interview is to assist in determining the acceptability of an individual for nomination and further processing for a position requiring an SBI.

B. *Scope.* Questions asked during the course of a personal interview must have a relevance to a security determination. Care must be taken not to inject improper matters into the personal interview. For example, religious beliefs and affiliations, beliefs and opinions regarding racial matters, political beliefs and affiliations of a nonsubversive nature, opinions regarding the constitutionality of legislative policies, and affiliations with labor unions and fraternal organizations are not proper subjects for inquiry. Department of Defense representatives conducting personal interviews should always be prepared to explain the relevance of their inquiries. Adverse inferences shall not be drawn from the refusal of a person to answer questions the relevance of which has not been established.

C. The interviewer. Except as prescribed in paragraph B. above, persons conducting personal interviews normally will have broad latitude in performing this essential and important function and, therefore, a high premium must necessarily be placed upon the exercise of good judgment and common sense. To insure that personal interviews are conducted in a manner that does not violate lawful civil and private rights or discourage lawful political activity in any of its forms, or intimidate free expression, it is necessary that interviewers have a keen and well-developed awareness of and respect for the rights of interviewees. Interviewers shall never offer an opinion as to the relevance or significance of information provided by the interviewee to eligibility for access to SCI. If explanation in this regard is required, the interviewer will indicate that the sole function of the interview is to obtain information and that the determination of relevance or significance to the individual's eligibility will be made by other designated officials.

D. Interview procedures. 1. The Head of the DoD Component concerned shall establish uniform procedures for conducting the interview that are designed to elicit information relevant to making a determination of whether the interviewee, on the basis of the interview and other locally available information (DD 398, Personnel Security Investigation Questionnaire, personnel records, security file, etc.), is considered acceptable for nomination and further processing.

2. Such procedures shall be structured to insure the interviewee his full rights under the Constitution of the United States, the Privacy Act of 1974 and other applicable statutes and regulations.

E. Protection of interview results. All information developed during the course of the interview shall be maintained in personnel security channels and made available only to those authorities who have a need-to-know in connection with the processing of an individual's nomination for duties requiring access to SCI or those who need access to information either to conduct the required SBI or to adjudicate the matter of the interviewee's eligibility for access to SCI, or as otherwise authorized by Executive order or statute.

F. Acceptability determination. 1. The determination of the interviewee's acceptability for nomination for duties requiring access to sensitive information shall be made by the commander, or designee, of the DoD organization that is considering nominating the interviewee for such duties.

2. Criteria guidelines contained in DCID 1/14 upon which the acceptability for nomination determination is to be based shall be provided to commanders of DoD organizations who may nominate individuals for access to SCI and shall be consistent with those established by the Senior Officer of the Intelligence Community of the Component

concerned with respect to acceptability for nomination to duties requiring access to SCI.

APPENDIX G TO PART 154—[RESERVED]

APPENDIX H TO PART 154—ADJUDICATION POLICY

General. The following adjudication policy has been developed to assist DoD adjudicators in making determinations with respect to an individual's eligibility for employment or retention in sensitive duties or eligibility for access to classified information. Adjudication policy relative to access to sensitive compartmented information is contained in DCID 1/14.

While reasonable consistency in reaching adjudicative determinations is desirable, the nature and complexities of human behavior preclude the development of a single set of guidelines or policies that is equally applicable in every personnel security case. Accordingly, the following adjudication policy is not intended to be interpreted as inflexible rules of procedure. The following policy requires dependence on the adjudicator's sound judgment, mature thinking, and careful analysis as each case must be weighed on its own merits, taking into consideration all relevant circumstances, and prior experience in similar cases as well as the guidelines contained in the adjudication policy, which have been compiled from common experience in personnel security determinations.

Each adjudication is to be an overall common sense determination based upon consideration and assessment of all available information, both favorable and unfavorable, with particular emphasis being placed on the seriousness, recency, frequency and motivation for the individual's conduct; the extent to which conduct was negligent, willful, voluntary, or undertaken with knowledge of the circumstances or consequences involved; and, to the extent that it can be estimated, the probability that conduct will or will not continue in the future. The listed "Disqualifying Factors" and "Mitigating Factors" in this set of Adjudication Policies reflect the consideration of those factors of seriousness, recency, frequency, motivation, etc., to common situations and types of behavior encountered in personnel security adjudications, and should be followed whenever an individual case can be measured against this policy guidance. Common sense may occasionally necessitate deviations from this policy guidance, but such deviations should not be frequently made and must be carefully explained and documented.

The "Disqualifying Factors" provided herein establish some of the types of serious conduct under the criteria that can justify a

determination to deny or revoke an individual's eligibility for access to classified information, or appointment to, or retention in sensitive duties. The "Mitigating Factors" establish some of the types of circumstances that may mitigate the conduct listed under the "Disqualifying Factors". Any determination must include a consideration of both the conduct listed under "Disqualifying Factors" and any circumstances listed under the appropriate or corresponding "Mitigating Factors".

The adjudication policy is subdivided into sections appropriate to each of the criteria provided in §154.7 of this part, except §154.7(i) for which conduct under any of the "Disqualifying Factors" of the adjudication policy or any other types of conduct may be appropriately included, if it meets the definition of §154.7(i).

In all adjudications, the protection of the national security shall be the paramount determinant. In the last analysis, a final decision in each case must be arrived at by applying the standard that the issuance of the clearance or assignment to the sensitive position is "clearly consistent with the interests of national security."

Loyalty

(See §154.7 (a) through (d)).

Basis: Commission of any act of sabotage, espionage, treason, terrorism, anarchy, sedition, or attempts threat or preparation therefor, or conspiring with or aiding or abetting another to commit or attempt to commit any such act. Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, terrorist, revolutionist, or with an espionage or other secret agent or similar representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or to alter the form of Government of the United States by unconstitutional means. Advocacy or use of force or violence to overthrow the Government of the United States or to alter the form of Government of the United States by unconstitutional means. Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in any foreign or domestic organization, association, movement, group or combination of persons (hereafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means.

Disqualifying Factors (behavior falls within one or more of the following categories):

1. Furnishing a representative of a foreign government information or data which could damage the national security of the United States.

2. Membership in an organization that has been characterized by the Department of Justice as one which meets the criteria in the above cited "Basis."

3. Knowing participation in acts that involve force or violence or threats of force or violence to prevent others from exercising their rights under the Constitution or to overthrow or alter the form of government of the United States or of any State.

4. Monetary contributions, service, or other support of the organization defined in "Basis", above, with the intent of furthering the unlawful objectives of the organization.

5. Participation, support, aid, comfort or sympathetic association with persons, groups, organizations involved in terrorist activities, threats, or acts.

6. Evidence of continuing sympathy with the unlawful aims and objectives of such an organization, as defined in the "Basis" above.

7. Holding a position of major doctrinal or managerial influence in an organization as defined in the "Basis" above.

Mitigating Factors (circumstances which may mitigate disqualifying information):

1. Lack of knowledge or understanding of the unlawful aims of the organization.

2. Affiliation or activity occurred during adolescent/young adult years (17-25), more than 5 years has passed since affiliation was severed, and affiliation was due to immaturity.

3. Affiliation for less than a year out of curiosity or academic interest.

4. Sympathy or support limited to the lawful objectives of the organization.

Foreign Preference

(See §154.7(f)).

Basis: Performing or attempting to one's perform duties, acceptance and active maintenance of dual citizenship, or other acts conducted in a manner which serve or which could be expected to serve the interests of another government in preference to the interests of the United States.

Disqualifying Factors (behavior falls within one or more of the following categories):

1. The active maintenance of dual citizenship, by one or more of the following:

a. Possession of a passport issued by a foreign nation and use of this passport to obtain legal entry into any sovereign state in preference to use of a U.S. passport.

b. Military service in the armed forces of a foreign nation or the willingness to comply with an obligation to so serve, or the willingness to bear arms at any time in the future on behalf of the foreign state.

c. Exercise or acceptance of rights, privileges or benefits offered by the foreign state

to its citizens, (e.g., voting in a foreign election; receipt of honors or titles; financial compensation due to employment/retirement, educational or medical or other social welfare benefits), in preference to those of the United States.

d. Travel to or residence in the foreign state for the purpose of fulfilling citizenship requirements or obligations.

e. Maintenance of dual citizenship to protect financial interests, to include property ownership, or employment or inheritance rights in the foreign state.

f. Registration for military service or registration with a foreign office, embassy or consulate to obtain benefits.

2. Employment as an agent or other official representative of a foreign government, or seeking or holding political office in a foreign state.

3. Use of a U.S. Government position of trust or responsibility to influence decisions in order to serve the interests of another government in preference to those of the United States.

Mitigating Factors (circumstances which may mitigate disqualifying information):

1. Claim of dual citizenship is with a foreign country whose interests are not inimical to those of the United States and is based solely on applicant's or applicant's parent(s)' birth, the applicant has not actively maintained citizenship in the last ten years and indicates he or she will not in the future act so as to pursue this claim.

2. Military service while a U.S. citizen was in the armed forces of a state whose interests are not inimical to those of the United States and such service was officially sanctioned by United States authorities.

3. Employment is as a consultant only and services provided is of the type sanctioned by the United States Government.

Security Responsibility Safeguards

(See § 154.7 (g) and (e)).

Basis: Disregard of public law, Statutes, Executive Orders or Regulations, including violation of security regulations or practices, or unauthorized disclosure to any person of classified information, or of other information, disclosure of which is prohibited by Statute, Executive Order or Regulation.

Disqualifying Factors: (behavior falls within one or more of the following categories):

1. Deliberate or reckless disregard of security regulations, public law, statutes or Executive Orders which could have resulted in the loss or compromise of classified information.

2. Deliberate or reckless violations of security regulations, including, but not limited to, taking classified information home or carrying classified data while in a travel status without proper authorization, intentionally copying classified documents in order to obscure classification markings, dis-

seminating classified information to cleared personnel who have no "need to know", or disclosing classified information, or other information, disclosure of which is prohibited by Statute, Executive Order or Regulation, to persons who are not cleared or authorized to receive it.

3. Pattern of negligent conduct in handling or storing classified documents.

Mitigating Factors (circumstances which may mitigate disqualifying information):

1. Violation of security procedures was directly caused or significantly contributed to by an improper or inadequate security briefing, provided the individual reasonably relied on such briefing in good faith.

2. Individual is personally responsible for a large volume of classified information and the violation was merely administrative in nature.

3. Security violation was merely an isolated incident not involving deliberate or reckless violation of security policies, practices or procedures.

Criminal Conduct

(See § 154.7(h)).

Basis: Criminal or dishonest conduct.

When it is determined that an applicant for a security clearance, or a person holding a clearance, has engaged in conduct which would constitute a felony under the laws of the United States, the clearance of such person shall be denied or revoked unless it is determined that there are compelling reasons to grant or continue such clearance. Compelling reasons can only be shown by clear and convincing evidence of the following:

(a) The felonious conduct (1) did not involve an exceptionally grave offense; (2) was an isolated episode; and (3) the individual has demonstrated trustworthiness and respect for the law over an extended period since the offense occurred; or

(b) The felonious conduct (1) did not involve an exceptionally grave offense; (2) was an isolated episode; (3) was due to the immaturity of the individual at the time it occurred; and (4) the individual has demonstrated maturity, trustworthiness, and respect for the law since that time; or

(c) In cases where the individual has committed felonious conduct but was not convicted of a felony, there are extenuating circumstances which mitigate the seriousness of the conduct such that it does not reflect a lack of trustworthiness or respect for the law.

The above criteria supersede all criteria previously used to adjudicate criminal conduct involving commission of felonies under the Laws of the United States. Involvement in criminal activities which does not constitute a felony under the laws of the United States shall be evaluated in accordance with the criteria set forth below. (For purposes of this paragraph, the term "felony" means any

crime punishable by imprisonment for more than a year. The term "exceptionally grave offense" includes crimes against the Federal Government, its instrumentalities, officers, employees or agents; or involves dishonesty, fraud, bribery or false statement; or involves breach of trust or fiduciary duty; or involves serious threat to life or public safety.)

Disqualifying Factors: (behavior falls within one or more of the following categories):

1. Criminal conduct involving:
 - a. Commission of a State felony.
 - b. Force, coercion, or intimidation.
 - c. Firearms, explosives, or other weapons.
 - d. Dishonesty or false statements, e.g., fraud, theft, embezzlement, falsification of documents or statements.
 - e. Obstruction or corruption of government functions.
 - f. Deprivation of civil rights.
 - g. Violence against persons.
2. Criminal conduct punishable by confinement for one year or more.
3. An established pattern of criminal conduct, whether the individual was convicted or not.
4. Failure to complete a rehabilitation program resulting from disposition of a criminal proceeding or violation of probation, even if the violation did not result in formal revocation of probation. Rehabilitation should not be considered a success or failure while the individual is still on parole/probation.
5. Criminal conduct that is so recent in time as to preclude a determination that recurrence is unlikely.
6. Close and continuing association with persons known to the individual to be involved in criminal activities.
7. Criminal conduct indicative of a serious mental aberration, lack of remorse, or insufficient probability of rehabilitative success, (e.g., spouse or child abuse).
8. Disposition:
 - a. Conviction.
 - b. Disposition on a legal issue not going to the merits of the crime.
 - c. Arrest or indictment pending trial when there is evidence that the individual engaged in the criminal conduct for which arrested or indicted.
9. Arrest record. In evaluating an arrest record, information that indicates that the individual was acquitted, that the charges were dropped or the subject of a "stet" or "nolle prosequi", that the record was expunged, or that the cause was dismissed due to error not going to the merits, does not negate the security significance of the underlying conduct. Personnel security determinations are to be made on the basis of all available information concerning a person's conduct and actions rather than the legal outcome of a criminal proceeding.

Mitigating Factors: (circumstances which may mitigate disqualifying information):

1. Immaturity attributable to the age of the individual at the time of the offense.
2. Extenuating circumstances surrounding the offense.
3. Circumstances indicating that the actual offense was less serious than the offense charged.
4. Isolated nature of the conduct.
5. Conduct occurring only in the distant past (such as more than 5 years ago) in the absence of subsequent criminal conduct.
6. Transitory conditions directly or significantly contributing to the conduct (such as divorce action, death in family, severe provocation) in the absence of subsequent criminal conduct.

Mental or Emotional Disorders

(See §154.7(j)).

Basis: Any behavior or illness, including any mental condition, which, in the opinion of competent medical authority, may cause a defect in judgment or reliability with due regard to the transient or continuing effect of the illness and the medical findings in such case.

Disqualifying Factors: (behavior or condition falls within one or more of the following categories):

1. Diagnosis by competent medical authority (board certified psychiatrist or clinical psychologist) that the individual has an illness or mental condition which may result in a significant defect in judgment or reliability.
2. Conduct or personality traits that are bizarre or reflect abnormal behavior or instability even though there has been no history of mental illness or treatment, but which nevertheless, in the opinion of competent medical authority, may cause a defect in judgment or reliability.
3. A diagnosis by competent medical authority that the individual suffers from mental or intellectual incompetence or mental retardation to a degree significant enough to establish or suggest that the individual could not recognize, understand or comprehend the necessity of security regulations, or procedures, or that judgment or reliability are significantly impaired, or that the individual could be influenced or swayed to act contrary to the national security.
4. Diagnosis by competent medical authority that an illness or condition that had affected judgment or reliability may recur even though the individual currently manifests no symptoms, or symptoms currently are reduced or in remission.
5. Failure to take prescribed medication or participate in treatment (including follow-up treatment or aftercare), or otherwise failing to follow medical advice relating to treatment of the illness or mental condition.

Mitigating Factors: (circumstances which may mitigate disqualifying information):

1. Diagnosis by competent medical authority that an individual's previous mental or emotional illness or condition that did cause significant defect in judgment or reliability is cured and has no probability of recurrence, or such a minimal probability of recurrence as to reasonably estimate there will be none.

2. The contributing factors or circumstances which caused the bizarre conduct or traits, abnormal behavior, or defect in judgment and reliability have been eliminated or rectified, there is a corresponding alleviation of the individual's condition and the contributing factors or circumstances are not expected to recur.

3. Evidence of the individual's continued reliable use of prescribed medication for a period of at least two years, without recurrence and testimony by competent medical authority that continued maintenance of prescribed medication is medically practical and likely to preclude recurrence of the illness or condition affecting judgment or reliability.

4. There has been no evidence of a psychotic condition, a serious or disabling neurotic disorder, or a serious character or personality disorder for the past 10 years.

Foreign Connections/Vulnerability To Blackmail or Coercion

(See paragraph §154.7(k)).

Basis: Vulnerability to coercion, influence, or pressure that may cause conduct contrary to the national interest. This may be (1) the presence of immediate family members or other persons to whom the applicant is bonded by affection or obligation in a nation (or areas under its domination) whose interests may be inimical to those of the United States, or (2) any other circumstances that could cause the applicant to be vulnerable.

Disqualifying Factors: (behavior falls within one or more of the following categories):

1. Indications that the individual now is being blackmailed, pressured or coerced by any individual, group, association, organization or government.

2. Indications that a vulnerable individual actually has been targeted and/or approached for possible blackmail, coercion or pressure by any individual, group, association, organization or government.

3. Indications that the individual has acted to increase the vulnerability for future possible blackmail, coercion or pressure by any individual, group, association, organization or governments, especially by foreign intelligence services. Indicators include, but are not limited to the following:

a. Failure to report to security officials any evidence, indication or suspicion that mail to relatives has been opened, unusually delayed or tampered with in any way, or that telephone calls have been monitored.

b. An increase in curiosity or official or quasi-official inquiries about the individual

to relatives in the country where they reside occasioned by the receipt of mail, packages, telephone calls or visits from the individual.

c. Contact with, or visits by officials to the individual while visiting relatives in another country, to learn more about the individual, or the individual's employment or residence, etc.

d. Unreported attempts to obtain classified or other sensitive information or data by representatives of a foreign country.

4. Conduct or actions by the individual while visiting in a country hostile to the United States that increase the individual's vulnerability to be targeted for possible blackmail, coercion or pressure. These include, but are not limited to the following:

a. Violation of any laws of the foreign country where relatives reside during visits or through mailing letters or packages, (e.g., smuggling, currency exchange violations, unauthorized mailings, violations of postal regulations of the country, or any criminal conduct, including traffic violations) which may call the attention of officials to the individual.

b. Frequent and regular visits, correspondence, or telephone contact with relatives in the country where they reside, increasing the likelihood of official notice.

c. Failure to report to security officials those inquiries by friends or relatives for more than a normal level of curiosity concerning the individual's employment, sensitive duties, military service or access to classified information.

d. Repeated telephone or written requests to the foreign government officials for official favors, permits, visas, travel permission, or similar requests which increase the likelihood of official notice.

e. Reckless conduct, open or public misbehavior or commission of acts contrary to local customs or laws, or which violate the mores of the foreign country and increase the likelihood of official notice.

f. Falsification of documents, lying to officials, harassing or taunting officials or otherwise acting to cause an increase in the likelihood of official notice or to increase the individual's vulnerability because personal freedom could be jeopardized.

g. Commission of any illicit sexual act, drug purchase or use, drunkenness or similar conduct which increases the likelihood of official notice, or which increases the individual's vulnerability because personal freedom could be jeopardized.

5. Conduct or actions by the individual that increase the individual's vulnerability to possible coercion, blackmail or pressure, regardless of the country in which it occurred, including, but not limited to the following:

a. Concealment or attempts to conceal from an employer prior unfavorable employment history, criminal conduct, mental or

emotional disorders or treatment, drug or alcohol use, sexual preference, or sexual misconduct described under that section below, or fraudulent credentials or qualifications for employment.

b. Concealment or attempts to conceal from immediate family members, or close associates, supervisors or coworkers, criminal conduct, mental or emotional disorders or treatment, drug or alcohol abuse, sexual preference, or sexual misconduct described under that section below.

Mitigating Factors (circumstances which may mitigate disqualifying information):

1. The individual:

a. Receives no financial assistance from and provides no financial assistance to persons or organizations in the designated country.

b. Has been in the United States for at least 5 years since becoming a U.S. citizen without significant contact with persons or organizations from the designated country (each year of active service in the United States military may be counted).

c. Has close ties of affection to immediate family members in the United States.

d. Has adapted to the life-style in the United States, established substantive financial or other associations with U.S. enterprises or community activities.

e. Prefers the way of life and form of government in the U.S. over the other country.

f. Is willing to defend the U.S. against all threats including the designated country in question.

g. Has not divulged the degree of association with the U.S. government or access to classified information to individuals in the designated country in question.

h. Has not been contacted or approached by anyone or any organization from a designated country to provide information or favors, or to otherwise act for a person or organization in the designated country in question.

i. Has promptly reported to proper authorities all attempted contacts, requests or threats from persons or organizations from the designated country.

j. The individual is aware of the possible vulnerability to attempts of blackmail or coercion and has taken positive steps to reduce or eliminate such vulnerability.

Financial Matters

(See §154.7(1)).

Basis: Excessive indebtedness, recurring financial difficulties, or unexplained affluence.

Disqualifying Factors: (behavior falls within one or more of the following categories):

1. History of bad debts, garnishments, liens, reposessions, unfavorable judgments, delinquent or uncollectable accounts or debts written off by creditors as uncollectable losses with little or no apparent or vol-

untary effort by the individual to pay amounts owed.

2. Bankruptcy:

a. Due to financial irresponsibility, or

b. With continuing financial irresponsibility thereafter.

3. Indebtedness aggravated or caused by gambling, alcohol, drug abuse, or other factors indicating poor judgement or financial irresponsibility.

4. A history or pattern of living beyond the person's financial means or ability to pay, a lifestyle reflecting irresponsible expenditures that exceed income or assets, or a history or pattern of writing checks not covered by sufficient funds or on closed accounts.

5. Indication of deceit or deception in obtaining credit or bank accounts, misappropriation of funds, income tax evasion, embezzlement, fraud, or attempts to evade lawful creditors.

6. Indifference to or disregard of financial obligations or indebtedness or intention not to meet or satisfy lawful financial obligations or when present expenses exceed net income.

7. Unexplained affluence or income derived from illegal gambling, drug trafficking or other criminal or nefarious means.

8. Significant unexplained increase in an individual's net worth.

Mitigating Factors: (circumstances which may mitigate disqualifying information):

1. Scheduled program or systematic efforts demonstrated over a period of time (generally one year) to satisfy creditors, to acknowledge debts and arrange for reduced payments, entry into debt-consolidation program or seeking the advice and assistance of financial counselors or court supervised payment program.

2. Change to a more responsible lifestyle, reduction of credit card accounts, and favorable change in financial habits over a period of time (generally one year).

3. Stable employment record and favorable financial references.

4. Unforeseen circumstances beyond the individual's control (e.g. a major or catastrophic illness or surgery, accidental loss of property or assets not covered by insurance, decrease or cutoff of income, indebtedness resulting from court judgments not due to the individual's financial mismanagement), provided the individual demonstrates efforts to respond to the indebtedness in a reasonable and responsible fashion.

5. Indebtedness due to failure of legitimate business efforts or business-related bankruptcy without evidence of fault or financial irresponsibility on the part of the individual, irresponsible mismanagement of an individual's funds by another who had fiduciary control or access to them without the individual's knowledge, or loss of assets as a victim of fraud or deceit, provided the individual demonstrates efforts to respond to the

indebtedness in a reasonable and responsible fashion.

6. Any significant increase in net worth was due to legitimate business interests, inheritance or similar legal explanation.

Alcohol Abuse

(See paragraph §154.7(m)).

Basis: Habitual or episodic use of intoxicants to excess.

Disqualifying Factors: (behavior falls within one or more of the following categories):

1. Habitual or episodic consumption of alcohol to the point of impairment or intoxication.

2. Alcohol-related incidents such as traffic violations, fighting, child or spouse abuse, non-traffic violation or other criminal incidents related to alcohol use.

3. Deterioration of the individual's health or physical or mental condition due to alcohol use or abuse.

4. Drinking on the job, reporting for work in an intoxicated or "hungover" condition, tardiness or absences caused by or related to alcohol abuse, and impairment or intoxication occurring during, and immediately following, luncheon breaks.

5. Refusal or failure to accept counseling or professional help for alcohol abuse or alcoholism.

6. Refusal or failure to follow medical advice relating to alcohol abuse treatment or to abstain from alcohol use despite medical or professional advice.

7. Refusal or failure to significantly decrease consumption of alcohol or to change life-style and habits which contributed to past alcohol related difficulties.

8. Indications of financial or other irresponsibility or unreliability caused by alcohol abuse, or discussing sensitive or classified information while drinking.

9. Failure to cooperate in or successfully complete a prescribed regimen of an alcohol abuse rehabilitation program.

Mitigating Factors (circumstances which may mitigate disqualifying information):

1. Successfully completed an alcohol awareness program following two or less alcohol-related incidents and has significantly reduced alcohol consumption, and made positive changes in life-style and improvement in job reliability.

2. Successfully completed an alcohol rehabilitation program after three or more alcohol-related incidents, has significantly reduced or eliminated alcohol consumption in accordance with medical or professional advice, regularly attended Alcoholics Anonymous or similar support organization for approximately one year after rehabilitation, and abstained from the use of alcohol for that period of time.

3. Whenever one of the situations listed below occurs, the individual must have successfully completed an alcohol rehabilitation

or detoxification program and totally abstained from alcohol for a period of approximately two years:

a. The individual has had one previously failed rehabilitation program and subsequent alcohol abuse or alcohol related incidents.

b. The individual has been diagnosed by competent medical or health authority as an alcoholic, alcoholic dependent or chronic abuser of alcohol.

4. Whenever the individual has had repeated unsuccessful rehabilitation efforts and has continued drinking or has been involved in additional alcohol related incidents then the individual must have successfully completed an alcohol rehabilitation or detoxification program, totally abstained from alcohol for a period of at least three years and maintained regular and frequent participation in meetings of Alcoholics Anonymous or similar organizations.

5. If an individual's alcohol abuse was surfaced solely as a result of self referral to an alcohol abuse program and there have been no precipitating factors such as alcohol related arrests or incidents action will not normally be taken to suspend or revoke security clearance solely on the self referral for treatment.

Drug Abuse

(See §154.7(n)).

Basis: Illegal or improper use, possession, transfer, sale or addiction to any controlled or psychoactive substance, narcotic, cannabis, or other dangerous drug.

Disqualifying Factors (behavior falls within one or more of the following categories):

1. Abuse of cannabis only, not in combination with any other substance.

a. Experimental abuse, defined as an average of once every two months or less, but no more than six times.

b. Occasional abuse, defined as an average of not more than once a month.

c. Frequent abuse, defined as an average of not more than once a week.

d. Regular abuse, defined as an average of more than once a week.

e. Compulsive use, habitual use, physical or psychological dependency, or use once a day or more on the average.

2. Abuse of any narcotic, psychoactive substance or dangerous drug (to include prescription drugs), either alone, or in combination with another or cannabis, as follows:

a. Experimental abuse, defined as an average of once every two months or less, but no more than six times.

b. Occasional abuse, defined as an average of not more than once a month.

c. Frequent abuse, defined as an average of not more than once a week.

d. Regular abuse, defined as an average of more than once a week.

e. Compulsive use, habitual use, physical or psychological dependency, or use on an

average of once a day or more on the average.

3. Involvement to any degree in the unauthorized trafficking, cultivation, processing, manufacture, sale, or distribution of any narcotic, dangerous drug, or cannabis or assistance to those involved in such acts whether or not the individual was arrested for such activity.

4. Involvement with narcotics, dangerous drugs or cannabis under the following conditions whether or not the individual engages in personal use:

- a. Possession.
- b. Possession of a substantial amount, more than could reasonably be expected for personal use.
- c. Possession of drug paraphernalia for cultivating, manufacturing or distributing (e.g., possession of gram scales, smoking devices, needles for injecting intravenously, empty capsules or other drug production chemical paraphernalia).
- d. Possession of personal drug paraphernalia such as needles for injecting, smoking devices and equipment, etc.

5. Information that the individual intends to continue to use (regardless of frequency) any narcotic, dangerous drug or cannabis. NOTE: There is no corresponding Mitigating Factor for this Disqualifying Factor because it is DoD policy that, as a general rule, if any individual expresses or implies any intent to continue use of any narcotic, dangerous drug, or other controlled substance, including marijuana and hashish, without a prescription, in any amount and regardless of frequency, it is to be considered contrary to the national interest and the interests of national security to grant or allow retention of a security clearance for access to classified information for that individual.)

Mitigating Factors (circumstances which may mitigate disqualifying information):

1. Abuse of cannabis only, as follows: (Use this to assess Disqualifying Factor 1)

a. Experimental abuse, which occurred more than six months ago and the individual has demonstrated an intent not to use cannabis or any other narcotic, psychoactive substance or dangerous drug in the future.

b. Occasional abuse of cannabis, which occurred more than 12 months ago, and the individual has demonstrated an intent not to use cannabis or any other narcotic, dangerous drug or psychoactive substance in the future.

c. Frequent abuse of cannabis occurred more than 18 months ago, and the individual has demonstrated an intent not to use cannabis or any other narcotic, dangerous drug or psychoactive substance in the future.

d. Regular abuse of cannabis occurred more than two years ago, and the individual has demonstrated an intent not to use cannabis or any other narcotic, dangerous drug or psychoactive substance in the future.

e. Compulsive, habitual use or physical or psychological dependency on cannabis occurred more than three years ago, the individual has demonstrated an intent not to use cannabis or any other narcotic, dangerous drug or psychoactive substance in the future and has demonstrated a stable life-style, with no indication of physical or psychological dependence.

2. For abuse *other than* cannabis alone. Use is considered cumulative and each separate substance must not be considered separately. (Use this to assess Disqualifying Factor 2).

a. Experimental abuse occurred more than 12 months ago, the individual has demonstrated an intent not to use any drugs or cannabis in the future and has successfully completed a drug rehabilitation program.

b. Occasional abuse occurred more than two years ago, the individual has demonstrated an intent not to use any drugs or cannabis in the future, has a stable lifestyle and satisfactory employment record and has successfully completed a drug rehabilitation program.

c. Frequent abuse occurred more than three years ago, the individual has demonstrated an intent not to use any drugs or cannabis in the future, has a stable lifestyle, including satisfactory employment record with no further indication of drug abuse, and has successfully completed a drug rehabilitation program.

d. Regular abuse occurred more than four years ago, the individual has demonstrated an intent not to use any drugs or cannabis in the future, has a stable lifestyle, including satisfactory employment record with no further indication of drug abuse, and has successfully completed a drug rehabilitation program.

e. Compulsive abuse occurred more than five years ago, the individual has demonstrated an intent not to use any drugs or cannabis in the future, has a stable lifestyle, including satisfactory employment record with no further indication of drug abuse, and has successfully completed a drug rehabilitation program.

3. Use this only to assess conduct under Disqualifying Factor 3.

a. Involvement in trafficking, cultivation, processing, manufacture, sale or distribution occurred more than five years ago, the individual has demonstrated an intent not to do so in the future, and has a stable lifestyle and satisfactory employment record and has not been involved in any other criminal activity.

b. Cultivation was for personnel use only, in a limited amount for a limited period and the individual has not been involved in similar activity or other criminal activity for more than three years and has demonstrated intent not to do so again in the future.

c. Illegal sale or distribution involved only the casual supply to friends of small

amounts (not for profit or to finance a personal supply) and occurred on only a few occasions more than two years ago, and the individual has demonstrated an intent not to do so again in the future.

4. Use this only to assess conduct under Disqualifying Factor 4 in the corresponding subparagraphs.

a. No possession of drugs or other criminal activity in the last two years.

b. The individual has not possessed drugs in the last three years, has had no other criminal activity in the last three years and has demonstrated an intent not to be involved in such activity in the future.

c. The individual has not possessed drug paraphernalia used in processing, manufacture or distribution for the last five years, has had no other criminal activity in the last five years and has demonstrated an intent not to be involved in such activity in the future.

d. The individual has not possessed drug paraphernalia for personal use in the last year, has had no other criminal activity in the last two years and has demonstrated an intent not to be involved in such activity in the future.

1. *Narcotic*. Opium and opium derivatives or synthetic substitutes.

2. *Dangerous Drug*. Any of the nonnarcotic drugs which are habit forming or have a potential for abuse because of their stimulant, depressant or hallucinogenic effect.

3. *Cannabis*. The intoxicating products of the hemp plant, Cannabis Sativa, including but not limited to marijuana, hashish, and hashish oil.

Falsification

(See § 154.7(o)).

Basis: Any knowing and willful falsification, cover-up, concealment, misrepresentation, or omission of a material fact from any written or oral statement, document, form or other representation or device used by the Department of Defense or any other Federal agency.

Disqualifying Factors (behavior falls within one or more of the following categories):

1. Deliberate omission, concealment, falsification or misrepresentation of relevant and material facts including, but not limited to information concerning arrests, drug abuse or treatment, alcohol abuse or treatment, treatment for mental or emotional disorders, bankruptcy, military service information, organizational affiliations, financial problems, employment, foreign travel, or foreign connections from any Personnel Security Questionnaire, Personal History Statement or similar form used by any Federal agency to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance or access eligibility, or award fiduciary responsibilities.

2. Deliberately providing false or misleading information concerning any of the relevant and material matters listed above to an investigator, employer, supervisor, security official or other official representative in connection with application for security clearance or access to classified information or assignment to sensitive duties.

Mitigating Factors (circumstances which may mitigate disqualifying information):

1. The information was not relevant or material to reaching a security clearance or access determination.

2. The falsification was an isolated incident in the distant past (more than 5 years) and the individual subsequently had accurately provided correct information voluntarily during reapplication for clearance or access and there is no evidence of any other falsification misrepresentation or dishonest conduct by the individual.

3. The behavior was not willful.

4. The falsification was done unknowingly or without the individual's knowledge.

5. The individual made prompt, good faith efforts to correct the falsification before being confronted with the facts of falsification.

6. Omission of material fact was caused by or significantly contributed to by improper or inadequate advice of authorized personnel, provided the individual reasonably relied on such improper or inadequate advice in good faith, and when the requirement subsequently was made known to the individual, the previously omitted information was promptly and fully provided.

Refusal to Answer

(See § 154.7(p)).

Basis: Failing or refusing to answer or to authorize others to answer questions or provide information required by a Congressional committee, court or agency in the course of an official inquiry whenever such answers or information concern relevant and material matters pertinent to an evaluation of the individual's trustworthiness, reliability and judgment.

Disqualifying Factors (behavior falls within one or more of the following categories):

1. Failure or refusal to provide full, frank and truthful answers or to authorize others to do so, in connection with any application for security clearance or access, to include required non-disclosure and security termination agreements.

2. Failure or refusal to provide appropriate investigative forms, including release forms, for use by investigators in obtaining information from medical institutions, agencies or personal physicians, therapists, psychologists, psychiatrists, counselors, rehabilitation treatment, agencies or personnel; from

police or criminal agencies, probation agencies or officers, financial institutions, employers, Federal or State agencies, professional associations or any other organizations as required as part of an investigation for security clearance, access, appointment or assignment to sensitive duties.

3. Failure or refusal to authorize others to provide relevant and material information necessary to reach a security clearance determination.

4. Failure or refusal to answer questions or provide information required by a Congressional committee, court or agency when such answers or information concern relevant and material matters pertinent to evaluating the individual's trustworthiness, reliability and judgment.

Mitigating Factors (circumstances which may mitigate disqualifying information):

1. The individual was unable to provide the information despite good faith and reasonable efforts to do so.

2. The individual was unaware of the necessity to provide the information requested or of the possible consequences of such refusal or failure to provide the information, and, upon being made aware of this requirement, fully frankly and truthfully provided the requested information.

3. The individual sought and relied in good faith on information and advice from legal counsel or other officials that the individual was not required to provide the information requested, and, upon being made aware of the requirement, fully, frankly and truthfully provided the requested information.

Sexual Misconduct

(See §154.7(q)).

Basis: Acts of sexual misconduct or perversion indicative of moral turpitude, poor judgment, or lack of regard for the laws of society.

Disqualifying Factors (behavior falls within one or more of the following categories):

1. The conduct involves:
 - a. Acts performed or committed in open or public places.
 - b. Acts performed with a minor, or with animals.
 - c. Acts involving inducement, coercion, force, violence or intimidation of another person.
 - d. Prostitution, pandering or the commission of sexual acts for money or other remuneration or reward.
 - e. Sexual harassment.
 - f. Self mutilation, self punishment or degradation.
 - g. Conduct that involves spouse swapping, or group sex orgies.
 - h. Adultery that is recent, frequent and likely to continue and has an adverse effect on good order or discipline within the workplace (e.g., officer/enlisted, supervisor/subordinate, instructor/student).

i. Conduct determined to be criminal in the locale in which it occurred.

j. Deviant or perverted sexual behavior which may indicate a mental or personality disorder (e.g., transexualism, transvestism, exhibitionism, incest, child molestation, voyeurism, bestiality, or sodomy.)

2. The conduct has been recent.

3. The conduct increases the individual's vulnerability to blackmail, coercion or pressure.

4. Evidence that the applicant has intention or is likely to repeat the conduct in question.

Mitigating Factors (circumstances which may mitigate qualifying information):

1. Sexual misconduct occurred on an isolated basis during or preceding adolescence with no evidence of subsequent conduct of a similar nature, and clear indication that the individual has no intention of participating in such conduct in the future.

2. Sexual misconduct was isolated, occurred more than 3 years ago, and there is clear indication that the individual has no intention of participating in such conduct in the future.

3. The individual was a minor or was the victim of force, or violence by another.

4. The individual has successfully completed professional therapy, has been rehabilitated and diagnosed by competent medical authority that misconduct is not likely to recur.

5. Demonstration that the individual's sexual misconduct can no longer form the basis for vulnerability to blackmail, coercion or pressure.

[52 FR 11219, Apr. 8, 1987, as amended at 58 FR 61026, Nov. 19, 1993]

APPENDIX I TO PART 154—OVERSEAS INVESTIGATIONS

1. Purpose

The purpose of this appendix is to establish, within the framework of this part, 32 CFR part 361 and Defense Investigative Service Manual 20-1, standardized procedures for the military investigative agencies to follow when they perform administrative and investigative functions on behalf of DIS at overseas locations.

2. Type Investigation

This part describes in detail Background Investigations (BI) which are conducted for Limited Access Authorizations and those Special Investigative Inquiries conducted for post-adjudicative purposes. Hereafter they are referred to as LAA and Post-adjudicative cases and are briefly described in paragraphs a and b below:

a. *Limited access authorization.* A level of access to classified defense information that may be granted to a non-U.S. citizen under

certain conditions, one of which is that a BI must have been completed with satisfactory results. §154.16(d) further describes LAA cases.

b. *Post-adjudication investigation.* A Personnel Security Investigation (PSI) predicated on new, adverse or questionable security, suitability or hostage information that arises and requires the application of investigation procedures subsequent to adjudicative action on a DoD-affiliated person's eligibility for continued access to classified information, assignment to or retention in sensitive duties or other designated duties requiring such investigation. While these cases are normally predicated on the surfacing of unfavorable information subsequent to favorable adjudication, they may also be opened when favorable information is offered to counter a previous unfavorable adjudication. §154.9(c)(3) further describes these cases.

3. General

a. As a rule, investigative activity in most PSIs occurs in the U.S. even when the Subject is at an overseas location. Therefore, the submission of requests for investigation to the Personnel Investigation Center (PIC) at Baltimore is a required procedure as it ensures uniform application of DoD PSI policy and the efficient dispatch and coordination of leads.

b. When the purpose of the investigation is for an LAA or post-adjudication on a Subject overseas, much, if not all of the leads are at an overseas location. While these cases also may be submitted directly to PIC for action, there is an inherent delay in the mailing of the request, the exchange of leads and reports with PIC, and transmittal of the reports back to the requester. To avoid this delay, the military investigative agencies, when acting for DIS overseas in accordance with 32 CFR part 361 may, with their Headquarters approval, accept these requests for investigations, initiate them and disseminate the results from the same level as they open, close, and disseminate their own cases. Usually this will greatly improve response time to the requester.

c. Under the procedures in paragraph b., above, DIS will not often be in a position to directly exercise its responsibility for control and direction until the case or lead is in progress or even completed; therefore, adherence to the policy stated in referenced documents, and as modified herein, is mandatory. When the policy of the military investigative agency is at variance with the above, the matter will be referred to the respective headquarters for resolution.

d. Since DIS is ultimately responsible for the personnel security product, it must be kept informed of all such matters referred to in this appendix. For instance, when the investigative agency overseas receives a DD

Form 1879, Request for Personnel Security Investigation, which sets forth an issue outside DIS jurisdiction, it will reject the request, inform the requester of the reason and furnish an information copy of the DD Form 1879 and rejection letter to PIC. When the issue/jurisdiction is unclear to the investigative agency, the DD Form 1879 and the perceived jurisdictional question should be promptly forwarded to DIS for action and, if appropriate, to the component's headquarters for information. Questions on the interpretation of DIS or DoD policy and Directives pertaining to individual PSI cases can usually be resolved through direct communications with PIC.

e. 32 CFR part 361 establishes the supporting relationship of the military investigative agencies to DIS in overseas areas, and DIS provides these agencies with copies of relevant policy and interpretive guidance. For these reasons, the investigative agency vice the requester, is responsible for evaluating the request, processing it, collecting and evaluating the results within their jurisdiction for sufficiency, and forwarding the completed product to the appropriate activity.

f. The magnitude of operations at PIC requires that methods of handling LAA and post-adjudicative cases be consistent to the maximum extent possible. For this reason, the procedures for LAA cases are nearly identical to those for post-adjudicative cases. Briefly, the main exceptions are:

(1) The notification to PIC that a post-adjudication case has been opened will be by message, since an issue is present at the outset, whereas notification of an LAA case should normally be by mail.

(2) The scope of the LAA investigation is 10 years or since the person's 18th birthday, whichever is shortest, whereas the leads in a post-djudication case are limited to resolving the issue.

4. Jurisdiction

a. As set-forth in 32 CFR part 361 DIS is responsible for conducting all DoD PSIs in the 50 States, District of Columbia, and Puerto Rico, and will request the military departments to accomplish investigative requirements elsewhere. The military investigative agencies in overseas locations routinely respond to personnel security investigative leads for DIS.

b. DIS jurisdiction also includes investigation of subversive affiliations, suitability information, and hostage situations when such inquiries are required for personnel security purposes; however, jurisdiction will rest with the military investigative agencies, FBI and/or civil authorities as appropriate when the alleged subversion or suitability issue represents a violation of law or, in the case of a hostage situation, there is an indication that the person concerned is actually being

pressured, coerced, or influenced by interests inimical to the United States, or that hostile intelligence is taking action specifically directed against that person. Specific policy guidance on the applicability of these procedures and the jurisdictional considerations are stated in § 154.9.

5. Case Opening

a. A request for investigation must be submitted by using DD Form 1879 and accompanied by supporting documentation unless such documentation is not immediately available, or the obtaining of documentation would compromise a sensitive investigation. Upon receipt of the request, the military investigative component will identify the issue(s), scope the leads, and ensure that the proposed action is that which is authorized for DIS as delineated in this part, 32 CFR part 361 and Defense Investigative Service Manual 201-1.

b. Upon such determination, the Component will prepare an Action Lead Sheet (ALS) which fully identifies the Subject and the scope of the case, and specifies precisely the leads which each investigative component (including DIS/PIC when appropriate) is to conduct.

c. Case opening procedures described above are identical for LAA and post-adjudication cases except with respect to notification of case opening to PIC:

(1) Post-adjudication Cases. These cases, because they involve an issue, are potentially sensitive and must be examined as early as possible by PIC for conformity to the latest DoD policy. Accordingly, the initial notification to PIC of case openings will always be by message. The message will contain at a minimum:

- (a) Full identification of the subject;
- (b) A narrative describing the allegation/facts in sufficient detail to support opening of the case; and
- (c) A brief listing of the leads that are planned.

The DD Form 1879 and supporting documents, along with the agency's ALS, should be subsequently mailed to PIC.

(2) LAA Cases. The notification to PIC of case opening will normally be accomplished by mailing the DD Form 1879, DD Form 398 (Personal History Statement), a copy of the ALS, and any other supporting documents to PIC. Message notification to PIC in LAA cases will only be required if there is a security or suitability issue apparent in the DD Form 1879 or supporting documents.

(d) Beyond initial actions necessary to test allegation for investigative merit and jurisdiction, no further investigative action should commence until the notification of case opening to PIC has been dispatched.

(e) PIC will promptly respond to the notification of case opening by mail or message specifying any qualifying remarks along

with a summary of previously existing data. PIC will also provide a DIS case control number (CCN). This number must be used by all components on all case related paperwork/reports.

(The investigating agency may assign its unique service CCN for interim internal control; however, the case will be processed, referenced, and entered into the DCII by the DIS case control number.) The first five digits of the DIS CCN will be the Julian date of the case opening when received at DIS.

6. Case Processing

a. The expected completion time for leads in LAA cases is 50 calendar days and for post-adjudication cases, 30 days, as computed from the date of receipt of the request. If conditions preclude completion in this time period, a pending report of the results to date, along with an estimated date of completion will be submitted to PIC.

b. Copies of all ALSs will be furnished to PIC. In addition, PIC will be promptly notified of any significant change in the scope of the case, or the development of an investigative issue.

c. The procedures for implementing the Privacy Act in PSI cases are set in DIS Manual 20-1-M 1. Any other restrictions on the release of information imposed by an overseas source or by regulations of the country where the inquiry takes place will be clearly stated in the report.

d. The report format for these cases will be that used by the military investigative agency.

e. Investigative action outside the jurisdictional area of an investigative component office may be directed elsewhere by ALS as needed in accordance with that agency's procedures and within the following geographical considerations:

(1) Leads will be sent to PIC if the investigative action is in the United States, District of Columbia, Puerto Rico, American Samoa, Bahama Islands, the U.S. Virgin Islands, and the following islands in the Pacific: Wake, Midway, Kwajalin, Johnston, Carolines, Marshalls, and Eniwetok.

(2) Leads to areas not listed above may be dispatched to other units of the investigative agency or even to another military agency's field units if there is an agreement or memorandum of understanding that provides for such action. For case accountability purposes, copies of such "lateral" leads must be sent to the PIC.

(3) Leads that cannot be dispatched as described in paragraph (2) above, and those that must be sent to a non-DoD investigative agency should be sent to PIC for disposition.

f. The Defense Investigative Manual calls for obtaining PIC approval before conducting a Subject interview on a post-adjudicative investigation. To avoid the delay that compliance with this procedure would create, a

military investigative component may conduct the interview provided:

(1) All other investigative leads have been completed and reviewed.

(2) The CCN has been received, signifying DIS concurrence with the appropriateness of the investigation.

(3) Contrary instructions have not been received from the PIC.

(4) The interview is limited to the resolution of the relevant issues disclosed by the investigation.

g. Notwithstanding the provisions of paragraphs f.(1) through (4) of this Appendix, if time is of the essence due to imminent transfer of the subject, a subject interview may be conducted at the discretion of the investigative agency.

7. Case Responsibility LAA and PA

Paragraph 3, above, describes the advantages of timely handling which accrue when the military investigative components act for DIS overseas. These actions for DIS may, however, be limited by the component's staffing and resource limitations, especially since some cases require more administration and management than others. Post-adjudication case leads, for instance, will normally be within the geographical jurisdiction of the component that accepted the request for investigation; therefore, relatively little case management is required. In contrast, LAA cases may require leads worldwide, and, therefore, create more complex case management and administration, especially in the tracking, monitoring and reviewing of leads outside the component's geographical area. Accordingly, an investigative component will accept the case from the requester, but only assign itself the appropriate leads within its own geographical jurisdiction and send the balance to PIC for appropriate disposition in accordance with the following:

a. The investigative agency will accept the request for investigation (thereby saving time otherwise lost in mailing to PIC) but limit its involvement in case management by extracting only those leads it will conduct or manage locally.

b. The agency should then prepare an ALS that shows clearly what leads it will cover and send PIC a copy of this ALS, along with the request for investigation and any other appropriate documentation. It must be clear in the ALS that PIC is to act on all those leads that the unit has not assigned to itself.

c. PIC, as case manager, will assume responsibility for the complete investigative package and, upon receipt of the last lead, will send the results to the appropriate activity.

d. The agency that accepted the case and assigned itself leads may send a copy of its report to the activity in the "Results to" block at the same time it sends the originals

to PIC. If so, the letter of transmittal must inform the recipient that these reports are only a portion of the investigation, and that the balance will be forthcoming from PIC. Similarly, PIC must be informed of which investigative reports were disseminated. (This is normally done by sending PIC a copy of the letter of transmittal.)

8. Scope

a. LAA. The scope of investigation is 10 years or from age 18, whichever is the shortest period.

b. Post-Adjudication Cases. There is no standard scope. The inquiries conducted will be limited to those necessary to resolve the issue(s).

9. Case Closing: LAA and PA

a. Whether the investigative component or PIC closes out an investigation, there are three key elements to consider:

(1) The investigative results must be reviewed for quality and conformance to policy.

(2) The results must be sent to the activity listed in the "Results to" block of the DD Form 1879.

(3) PIC must be informed whether or not any dissemination was made by the investigative agency and, if so, what reports were furnished.

b. Investigative results may also be sent to a requester or higher level activity that makes a statement of need for the results. In such instances, a copy of the letter requesting the results and the corresponding letter of transmittal must be sent to PIC for retention.

c. When an investigative agency disseminates reports for PIC, it may use the transmittal documents, letters, or cover sheets it customarily uses for its own cases.

d. The material that is to be provided to PIC will consist of: The originals of all reports, and all other case documentation such as original statements, confidential source sheets, interview logs, requests for investigation, letters of transmittal to adjudicators/requesters, or communications with the requester, such as those that modify the scope of the investigation.

e. For DIS to fulfill its responsibilities under DoD 5220.22-R and the Privacy Act of 1974 all inquiries conducted in its behalf must be set forth in an ROI for the permanent file, whether the case is completed, terminated early, or referred to another agency.

10. Referral

A case may require premature closing at any time after receipt of the DD Form 1879 by the investigative component if the information accompanying the request, or that which is later developed, is outside DIS jurisdiction. For example, alleged violations of

law, a counterintelligence matter, or actual coercion/influence in a hostage situation (see paragraph 4.b. of this Appendix) must be referred to the appropriate agency, and DIS involvement terminated. The requester will be informed by letter or indorsement to the DD Form 1879 of the information developed that, due to jurisdictional consideration, the case was referred to (fill in appropriate address) and that the DIS case is closed. The agency to which referral was made and PIC will be furnished with the results of all investigations conducted under DIS auspices. DIS, however, has an interest in the referral agency's actions and no information should be solicited from that agency.

APPENDIX J TO PART 154—ADP POSITION CATEGORIES AND CRITERIA FOR DESIGNATING POSITIONS

OMB Circular A-71 (and Transmittal Memo #B1), July 1978 OMB Circular A-130, December 12, 1985, and FPM Letter 732, November 14, 1978 contain the criteria for designating positions under the existing categories used in the personnel security program for Federal civilian employees as well as the criteria for designating ADP and ADP related positions. This policy is outlined below:

ADP Position Categories

1. Critical-Sensitive Positions

ADP-I positions. Those positions in which the incumbent is responsible for the planning, direction, and implementation of a computer security program; major responsibility for the direction, planning and design of a computer system, including the hardware and software; or, can access a system during the operation or maintenance in such a way, and with a relatively high risk for causing grave damage, or realize a significant personal gain.

2. Noncritical-Sensitive Positions

ADP-II positions. Those positions in which the incumbent is responsible for the direction, planning, design, operation, or maintenance of a computer system, and whose work is technically reviewed by a higher authority of the ADP-I category to insure the integrity of the system.

3. Nonsensitive Positions

ADP-III positions. All other positions involved in computer activities.

In establishing the categories of positions, other factors may enter into the determination, permitting placement in higher or lower categories based on the agency's judgment as to the unique characteristics of the system or the safeguards protecting the system.

Criteria for Designating Positions

Three categories have been established for designating computer and computer-related positions—ADP-I, ADP-II, and ADP-III. Specific criteria for assigning positions to one of these categories is as follows:

Category	Criteria
ADP-I	<p>Responsibility or the development and administration of agency computer security programs, and also including direction and control of risk analysis and/or threat assessment.</p> <p>Significant involvement in life-critical or mission-critical systems.</p> <p>Significant involvement in life-critical or mission-critical systems.</p> <p>Responsibility for the preparation or approval of data for input into a system which does not necessarily involve personal access to the system, but with relatively high risk for effecting grave damage or realizing significant personal gain.</p> <p>Relatively high risk assignments associated with or directly involving the accounting, disbursement, or authorization for disbursement from systems of (1) dollar amounts of \$10 million per year or greater, or (2) lesser amounts if the activities of the individual are not subject to technical review by higher authority in the ADP-I category to ensure the integrity of the system.</p> <p>Positions involving <i>major</i> responsibility for the direction planning, design, testing, maintenance, operation, monitoring, and/or management of systems hardware and software.</p> <p>Other positions as designated by the agency head that involve relatively high risk for effecting grave damage or realizing significant personal gain.</p>
ADP-II	<p>Responsibility for systems design, operation, testing, maintenance, and/or monitoring that is carried out under technical review of higher authority in the ADP-I category, includes, but is not limited to:</p> <p>(1) access to and/or processing of proprietary data, information requiring protection under the Privacy Act of 1974, and Government-developed privileged information involving the award of contracts;</p> <p>(2) accounting, disbursement, or authorization for disbursement from systems of dollar amounts less than \$10 million per year. Other positions are designated by the agency head that involve a degree of access to a system that creates a significant potential for damage or personal gain less than that in ADP-I positions.</p>
ADP-III	All other positions involved in Federal computer activities.

PART 155—DEFENSE INDUSTRIAL PERSONNEL SECURITY CLEARANCE PROGRAM

Sec.

155.1 Purpose.

155.2 Applicability and scope.

155.3 Definitions.